

STATINTL

15 November 1977

MEMORANDUM FOR: [REDACTED]
Office of General Counsel

FROM : [REDACTED]
Assistant for Information, DDA

SUBJECT : Proposed National Security Council Directive
Concerning National Security Information and
Material

REFERENCE : Multiple addressee memorandum dated 26 October
1977, same subject

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1. This paper contains the combined comments of the Office of Security, Information Systems Analysis Staff, and this office on the subject draft. We have limited the comments to the undated draft of [REDACTED] because we feel it is far superior to the [REDACTED] original.

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Page 2: C. Authority to Classify.

We are pleased to see the provision for classification authority in the absence of the designee.

Page 2: F. Extension of Classification Beyond Six Years.

We are under the assumption, based on the last meeting on the Executive Order, that the "demonstrable need" phrase in the Order was to be changed. If so, it should not be used here. We suggest the same language be used as in the definition: "at least significant damage" would result if declassified.

Page 3: G.(1) Identity of Classifier.

Since the Agency uses employee numbers to identify classification authorities, request the first sentence read, "be identified on the face of the information by name, position title or other identifier."

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Page 3: G.(2) Date for Declassification or Review.

What happens to documents if they are marked for review by a particular date but are not reviewed for administrative reasons? Throughout the draft there seems to be a presumption against classification. The Agency could not tolerate a system in which documents become declassified automatically if the review date slips by.

Page 4: G.(3) Overall and Page Markings of Documents.

The first sentence at the top of the page indicates that individual pages of a document will be marked with the highest classification of the content of the page. We don't feel that is really necessary if each paragraph of the document is marked individually. Also, this raises the problem of documents printed on both sides. We recommend that every page of a document carry the highest classification of any single paragraph contained therein.

Page 5: G.(5) Waiver of the Portion (Paragraph) Marking Requirement.

We understand the rationale for placing the waiver authority at the SIOO level, but we think the ultimate authority for an agency's documents belongs more appropriately with the head of the agency. In addition, the list of information elements required to seek a waiver needs to be simplified. Item (e) seems absurd, at least in the area of intelligence. Priorities change and what may have seemed a final product suddenly becomes an input to an urgent report. It is difficult, if not impossible, to estimate today what documents may form a basis for derivative classification of other documents tomorrow.

Page 5: G.(6) Subjects and Titles.

We feel the last sentence of this section is unnecessary since we've already said that subjects and titles will be marked with their classifications.

Page 6: G.(7) Material Other Than Documents.

We think the following addition to the end of the sentence would clarify the meaning: "furnished to recipients and stored with the material."

Page 6: G.(10) Declassification, Downgrading, and Upgrading Markings.

The beginning of the last sentence on the page should be changed to conform to J.(1) on page 18 and several other places in the directive. "Known holders or recipients...." We feel this is a very significant point.

Page 8: H. Additional Markings Required.

We notice the deletion from this list of the marking "National Security Information." We think it should be included. EO 11652 prescribes this marking for information or material furnished to persons outside the Executive Branch. The Agency uses it on information furnished to contractors and similar kinds of information.

Page 9: B. Marking.

The derivative classification marking causes us a problem. We can foresee a bibliography of classification sources for each intelligence analyst's reports longer than the report itself. Therefore, the sentence in the middle of the paragraph which reads "In these cases, the record copy of the derivately classified information shall identify each source of classification applied to the newly prepared information." should end with the words "where practicable" to reduce the burden on our analysts.

Page 10: C. Accountability.

The statement as it now reads implies that the derivative classifier is responsible for the original classification decision. We suggest the following be appended to the sentence: "to the extent they can verify the accuracy of the original classification."

Page 12: A. Emphasis on Declassification.

There is no indication as to who authorizes declassification authority. Also, this section directs that rosters of declassification officers be subject to SIOO review. To protect those officers in a cover status, the same language should be used here as in section D. on page 2: "In cases where listing of the names of officials having classification authority might disclose intelligence information, the Agency shall establish some other record by which such officials can readily be identified."

Page 12: Earliest Possible Declassification.

The words "or event" seem to have been dropped from the first sentence, after "at the earliest possible date."

Page 13: C. New Material.

As we mentioned in our comments on page 3, G.(2), the presumption against classification is apparent in this section. It appears that if through oversight an item of information is left out of the declassification guidelines, it is declassified automatically. We suggest the following addition to the last sentence: "or officially added to the guidelines, if appropriate."

Page 13: D. Old Material.

The same addition above should be added to the sentence, "Information not identified in the guidelines as requiring review shall be declassified." The last word of the last sentence should be changed to "material" to be consistent.

Page 13: E. Declassification Guidelines.

The second sentence is unclear. What is meant by "exclusive in nature"? We feel the sentence is better as follows: "The guidelines shall list the categories of information which require review...."

Page 14: E. Declassification Guidelines (continued)

The first sentence of the page assumes that the Archivist holds and reviews all retired records. This is not so -- we handle our own. We do not want other agencies applying our guidelines to CIA documents found in their records holdings. In any event, the last sentence seems to violate the third agency rule.

Page 14: F. Systematic Review.

This section should be consistent with the proposed Executive order. Section 4.D. of the draft states that only the "permanently valuable" holdings must be reviewed. This phrase should be added to the first sentence in the section. The third sentence contains the "demonstrable damage" phrase (see comment for page 2, F.). Depending on the exact working of the order, this phrase will need to be changed.

Page 15: F. Systematic Review (continued)

The comments above on "demonstrable need" apply here.

Page 15: G.(1) Action on Initial Request.

In order to avoid confusion, the third sentence should read, "The receiving office or office which has been assigned action" In CIA, one office receives and acknowledges the requests and assigns action to other components.

Page 16: G.(3) Availability of Declassified Information.

The Privacy Act should also be cited here.

Page 17: I. Challenges to Classification.

The first sentence reads poorly. We suggest the following partial change, "...information is unnecessarily classified or for which overly restrictive periods...."

Page 18: J.(2) Upgrading of Classification.

This paragraph seems to ignore the problem of those persons who have had access to the material in the past. We suggest the following sentence be added to the end of the paragraph: "Personnel no longer authorized access should be advised, with appropriate admonitions, about the sensitivity of the information in question."

Page 21: C.(2) Dissemination of Intelligence Information.

We recognize that the wording of this section comes verbatim from the current NSCD but the new directive could be improved to ensure compliance. We suggest the addition of the phrase "or his designee" following "an assessment by the senior intelligence official" to ease the administrative burden on the DCI.

Page 22: E. Limitations and Prohibitions on Reproduction.

We understood from [] that paragraph (5) on the recordkeeping for reproduction of Secret and Top Secret documents would be deleted. In addition, in paragraph (6) the words "thermofax or similar" should be deleted. We believe "thermofax" is a registered trademark and cannot be used. Also, there is similar equipment which does not retain an image. There are protective measures which can be taken to avoid security hazards (e.g., vault storage, a daily cleaning of the drum after use, etc.).

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Page 23: F.(3) Standards for Security Equipment.

The Office of Security prefers that no exceptions be granted for security equipment. However, if exceptions are to be granted it should be specified that the storage equipment is to be in "GSA approved" steel filing cabinets, whether with combination lock or steel lock bar.

Page 24: F.(5)b. Equipment Out of Service.

It seems that this paragraph providing instructions on how to reset lock combinations on equipment taken out of service is not germane to this document and should be deleted.

Page 26: G.(2) Transmission of Top Secret.

As presently stated, the entire government community is constrained to act according to the Executive Order while the FBI would be free to act as they see fit in the absence of expressed reservations from originating agencies. We do not believe that exceptional authority should be granted to the Director, FBI and suggest that the last five lines of this paragraph be deleted.

Page 27: G.(3)b. Other Areas, Vessels, Military Postal Service, Aircraft.

It should be stipulated that Secret information may be transmitted by United States citizen captains or masters of vessels of United States registry.

Page 27: G.(4) Transmittal of Confidential.

We take exception to the approval of first class mail for transmittal of Confidential material within the United States. Only certified mail should be used for transmission of classified information.

Page 28: G.(6) Telecommunications Conversations.

The reference on the last line should read "subsection G.(2) above."

2. Any questions regarding these comments may be referred to [redacted] We assume a revised directive incorporating the appropriate comments will be circulated for review prior to issuance.

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AI/DDA [redacted] ydc (15 Nov 77)
Distribution.

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Original - Addressee

- ✓ 1 - ISAS/RAB [redacted]
- 1 - ISAS/RRB [redacted]
- 1 - OS/PPG
- 1 - DDA Subject
- 1 - HGB Chrono
- 1 - EML Chrono

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